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COMMITTEE AGAINST TORTURE

Sixth session

SUMMARY RECORD OF THE 86th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 2 May 1991, at 3.30 p.m.

Chairman: Mr. VOYAME

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The meeting was called to order at 4.05 p.m.

ANNUAL REPORT OF THE COMMITTEE ON ITS ACTIVITIES (agenda item 10) (continued) (CAT/C(VI)/CRP.1 and Add.1-13, CAT/C(VI)/CRP.2 and Add.1 and 2, CAT/C(VI)/CRP.3 and Add.1-4)

1. The CHAIRMAN invited the members of the Committee to consider the draft annual report to be submitted by the Committee under article 24 of the Convention.

2. He recalled the decision taken at a previous meeting that the names of the country rapporteur for each country would be included at the beginning of the section of the report dealing with that country. However, Mr. Houshmand had indicated that that might not be a good idea because it might unduly personalize the report and give the impression that the conclusions drawn by the Committee were essentially those of the country rapporteur.

3. He therefore suggested that the names of the country rapporteurs should be included in a list given in the annex to the report.

4. Mr. MIKHAILOV said that, in his opinion, the Committee should take account of the comments made by Mr. Houshmand. With regard to the suggestion by the Chairman, he did not think that the name of the country rapporteur should be included in an annex, since that might give the impression that he had done more than the Rapporteur of the Committee.

5. Mr. HOUSHMAND (Representative of the Secretary-General) said that he had made his comments, which were based on the practice of all the other treaty bodies, for two reasons. One was that the annual report was submitted to the General Assembly on behalf of the Committee and, unlike the summary records, in which the names of speakers were indicated in the order in which they had spoken, the summaries prepared for the report to the General Assembly reflected a consolidated view of the Committee as such.

6. The second reason why the name of the country rapporteur should not be mentioned in the text, but included in an annex, was that, while the Rapporteur of the Committee spoke on behalf of the Committee, the country rapporteur expressed the view of only one member. That was why the other treaty bodies followed the practice of mentioning Special Rapporteurs and alternates in an annex. Of course, the summaries of the discussions in those bodies contained a sentence which indicated where the names of the Special Rapporteurs would be found.

7. After a discussion in which Mr. MIKHAILOV and Mr. DIPANDA MOUELLE took part, the CHAIRMAN said that, if he heard no objection, he would take it that the Committee agreed to his suggestion.

8. It was so decided.

Chapter I. Organizational and other matters (CAT/C(VI)/CRP.1/Add.1) (continued)

9. Mr. BURNS, referring to paragraph 5, suggested that the following sentence should be added after the first sentence: "A film on this subject was shown to the members of the Committee".

10. Mr. SORENSEN said that the name of the film should be mentioned.

11. It was so decided.

12. The CHAIRMAN said that paragraph 9 was too negative with regard to the draft optional protocol. It clearly reflected the criticism expressed, but did not do so well as far as the positive aspects were concerned. With regard to the third sentence, he thought that, during the discussion in the Committee, reference had been made to "problems" and "difficulties", but that no mention had been made of "obstacles". He therefore suggested that the sentence should be amended to read: "Concerns were raised about the amount and complexity of the work associated with regular visits to places of detention on different continents, the language barrier that may exist between experts and persons interviewed during such visits and the high financial cost of the preventive system envisaged by the draft optional protocol".

13. He did not think that the sixth sentence was necessary, since it was for States to study carefully the text of the optional protocol and to express their opinion on it.

14. Mr. BURNS (Rapporteur) said that he would have no objection to the deletion of the sixth sentence.

15. Mr. MIKHAILOV, supported by Mr. SORENSEN, said that the sentence reflected the view expressed in the Committee and should therefore be retained.

16. Mr. PERLAS said that the sentence should be maintained, since it was the States parties that would have to make the final decision concerning the system envisaged.

17. The CHAIRMAN said that he would not press his suggestion.

18. He suggested that the following text should be inserted after the fifth sentence of paragraph 9: "But it was also pointed out that this objection had been taken into account by the authors of the draft optional protocol, in article 9 on relations with regional organizations".

19. Mr. SORENSEN suggested that the beginning of that sentence should read: "In the view of some of the members ...". He also wished to make it clear that he was not happy with the way the draft optional protocol dealt with the issue.

20. Mr. BURNS (Rapporteur) suggested the wording: "But one member of the Committee was of the view that ...".

21. Document CAT/C(VI)/CRP.1/Add.1, as amended, was adopted.

Chapter II. Action by the General Assembly at its forty-fifth session (CAT/C(VI)/CRP.1/Add.2)

22. Mr. BURNS (Rapporteur) said that there was a grammatical error in the English text of paragraph 4 which he would correct in a note to the secretariat.

23. The CHAIRMAN said that paragraph 13, which referred to the members responsible for liaison with the other human rights treaty bodies, did not actually give the names of the persons concerned.

24. Mr. BRUNI (Secretary of the Committee) said that the members already appointed might be unable to take up their liaison duties for some reason and that the list might therefore have to be changed.

25. Document CAT/C(VI)/CRP.1/Add.2 was adopted.

Chapter III. Submission of reports by States parties under article 19 of the Convention (CAT/C(VI)/CRP.1/Add.3)

26. Mr. SORENSEN, referring to paragraph 10, said that, during the discussion on ways of ensuring the timely submission of reports, he had suggested that the discussion of the report of a State party which was three years overdue should be included in the Committee's agenda, even if the report had not been received.

27. Mr. BURNS (Rapporteur) suggested that the following new sentence should be added before the last sentence of paragraph 10: "It was also suggested that, where States parties were three years late in presenting their reports, the Committee would examine the implementation of the Convention in that State party on the basis of such information as it had available to it".

28. Document CAT/C(VI)/CRP.1/Add.3, as amended, was adopted.

Chapter IV. Consideration of reports submitted by States parties under article 19 of the Convention: Panama (CAT/C(VI)/CRP.1/Add.10)

29. Ms. CHANET said that, in paragraph 5, the Committee was said to have asked for information on the powers of the Guardia Civil in Panama. In fact, however, the Guardia Civil existed in Spain and other Spanish-speaking countries, but not in Panama.

30. Mr. BURNS (Rapporteur), supported by the CHAIRMAN, suggested the following wording: "... the organization and powers of the police force in Panama".

31. It was so decided.

32. The CHAIRMAN said that, according to paragraph 5, the Committee had noted "that Panama's report was somewhat brief", which was surely an understatement.

33. Mr. BURNS (Rapporteur) suggested that the words "too brief" should be used.

34. It was so decided.

35. Ms. CHANET, noting that the second sentence of paragraph 8 referred to a question by members of the Committee concerning the frequency of death sentences in Panama, said that there was no death penalty in Panama.

36. The CHAIRMAN suggested that that sentence should be amended to read: "They also wished to know what penalties were laid down for failure to observe disciplinary rules in prisons ...".

37. It was so decided.

38. Mr. DIPANDA MOUELLE suggested that, in the second sentence of paragraph 14, the words "torture and" should be added before the word "ill-treatment".

39. It was so decided.

40. Document CAT/C(VI)/CRP.1/Add.10, as amended, was adopted.

Chapter IV. Consideration of reports submitted by States parties under article 19 of the Convention: Chile (CAT/C(VI)/CRP.1/Add.11)

41. Ms. CHANET suggested that the euphemistic words "an incorrect representation" in the first sentence of paragraph 2 should be replaced by the words "a distorted picture".

42. Mr. SORENSEN suggested that it would be better merely to state that the previous Government's report was untrue, as the Chilean representatives themselves had maintained.

43. The CHAIRMAN said that Ms. Chanet's revised wording would adequately reflect that view.

44. Ms. CHANET said that, in the fourth sentence of the French text of paragraph 26, the word "compenser" should be replaced by the word "indemniser".

45. The CHAIRMAN said that paragraph 24 of the French text should be amended along the same lines.

46. Mr. KHITRIN, supported by Mr. MIKHAILOV and Ms. CHANET, suggested that, in paragraph 26, it would be better to refer to the Government's aspiration to restore democracy rather than to its actual achievement.

47. Mr. BURNS (Rapporteur) said that the Committee's reservations could be reflected if it was stated that members of the Committee congratulated the Chilean Government "for the diligence with which it was attempting to restore democracy".

48. Ms. DIAZ PALACIOS said that it must be recognized that the Chilean Government had to contend with authoritarian elements inherited from the military régime. The first sentence of paragraph 26 might therefore appropriately conclude with the wording "and wished it success in overcoming the obstacles that it confronts in restoring full democracy in the country".

49. Ms. CHANET pointed out that the suggestion did not accurately reflect the statement by the country rapporteur; it also did not reflect the Committee's opinion. The Committee appeared to be absolving the Government from responsibility for its failure to secure full democracy. The report must reflect the fact that the Committee had stressed both the Government's efforts and its failure, thus far, to achieve full democracy.

50. Mr. DIPANDA MOUELLE said that he favoured the adoption of the wording which had been proposed by Ms. Díaz Palacios and which reflected the full range of opinions.

51. Mr. SORENSEN said he thought that the suggestion was a good one, provided that the second sentence beginning with the words: "Members noted, however, ..." was deleted.

52. Ms. CHANET suggested that one solution would be to replace the word "toutefois" by the words "à cet égard" in the French text of the second sentence.

53. It was so decided.

54. Mr. PERLAS, referring to the first sentence of paragraph 25, asked whether the Chilean delegation had really said that the onus was on the accused to prove that torture had been applied. Regarding the last sentence of the same paragraph, he asked whether the intention had in fact been "to determine whether the confession had been obtained under duress". His recollection was that the victim was asked to make his statement again and that the judge was then called upon to decide not whether the confession had been obtained under duress, but which confession was more acceptable on the basis of other available evidence.

55. THE CHAIRMAN said that the wording of the report reflected that of the relevant summary record.

56. Mr. BURNS (Rapporteur) said he agreed with the point made by Mr. Perlas. However, he felt that, while puzzling to a lawyer, the point would be clear enough to the layman.

57. The CHAIRMAN said that, in his opinion, the wording of the report was an adequate, if not fully detailed, reflection of the Committee's discussion.

58. Document CAT/C(VI)/CRP.1/Add.11, as amended, was adopted.

59. The CHAIRMAN said that, in accordance with a suggestion by the Representative of the Secretary-General, he took it that the Committee decided to follow the practice of other committees and, in the interests of clarity, begin the last part of its report concerning each State with the subtitle "Concluding observations".

60. It was so decided.

Chapter V. Consideration of information received under article 20 of the Convention (CAT/C(VI)/CRP.1/Add.13)

61. Document CAT/C(VI)/CRP.1/Add.13 was adopted.

Chapter VIII. Adoption of the annual report of the Committee on its activities (CAT/C(VI)/CRP.2/Add.2)

62. Document CAT/C(VI)/CRP.2/Add.2 was adopted.

Annex V (CAT/C(VI)/CRP.3/Add.2); annexes VI and VII (CAT/C(VI)/CRP.3/Add.3)

63. The CHAIRMAN said that the documents under consideration simply reflected decisions already taken by the Committee, and that no further decision on them was necessary. If he heard no objection, he would take it that the Committee took note of the fact that those documents, which had already been adopted, would be published as annexes to the report.

64. Documents CAT/C(VI)/CRP.3/Add.2 and CAT/C(VI)/CRP.3/Add.3 were adopted.

Annex VIII (CAT/C(VI)/CRP.3/Add.4)

65. The CHAIRMAN said that the document as issued differed from the text adopted by the Committee: subparagraph (c) had been deleted and the words "following the order of articles 1 to 16" added to the title of part I.

66. Mr. HOUSHMAND (Representative of the Secretary-General) explained that the secretariat had considered that the method for submission of information requested under subparagraphs (a) and (b) would be more clearly comprehensible if it was reflected in the title of part I.

67. The CHAIRMAN said that he found the secretariat's argument unconvincing.

68. Ms. CHANET said that, in her view, neither solution was entirely satisfactory. It made little sense to place the request for submission of information on an article-by-article basis at the very end of the section. On the other hand, some of the measures about which information was requested did not concern every article of the Convention. The main question was whether, as they stood, the guidelines would be comprehensible to States parties.

69. Mr. DIPANDA MOUELLE said that he shared Ms. Chanet's concern. He suggested that the title of part I as amended by the secretariat should be retained, with the addition of the words ", where appropriate" before the words "following the order of articles 1 to 16".

70. It was so decided.

71. Document CAT/C(VI)/CRP.3/Add.4, as amended, was adopted.

The meeting rose at 6 p.m.